

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION

IN RE:

PEPPERTREE – ATLANTIC BEACH ASSOCIATION, INC.,  
  
Debtor.

CASE NO.: 15-02700-5-DMW  
(Lead Case)

CHAPTER 11

PEPPERTREE – ATLANTIC BEACH ASSOCIATION, INC.,  
  
Plaintiff,  
  
v.

ADV. PRO. 16-00049-5-DMW  
  
(UNIT 1A)

JAMES T. RUSHER, *et al.*,  
  
Defendants.

**MOTION FOR CLERK’S ENTRY OF DEFAULT**  
**AND MOTION FOR DEFAULT JUDGMENT**

NOW COME Hope Derby Carmichael and Paul T. Flick, Special Counsel for the Plaintiff-Debtor Peppertree-Atlantic Beach Association, Inc. (hereinafter referred to as “Plaintiff-Debtor”) and hereby move the Court pursuant to Bankruptcy Rule 7055 and Federal Rule of Civil Procedure 55(b)(1) for entry of default and judgment by default as to the Defendants ROBERT B. PINER, ELLEN S. PINER, RUFUS HAMILTON, JR., MARSHA MITCHELL HAMILTON, SUZANNE T. SEDILLO, CRUZ M. SEDILLO, II, MAX J. WAUGH, FRANCHINE B. WAUGH, PAULA CARDI, JUDITH H. CURRIN, VERONICA BEESON, GORDON BEESON, DONALD R. MCILWEAN, KARLA P. MCILWEAN, ANTHONY C. ANGION and MARY P. ANGION (hereinafter referred to as the “Defendants”), and the Plaintiff-Debtor respectfully shows the Court as follows:

1. Pursuant to the Court's Order Establishing Procedures entered on May 23, 2016, the Defendants in this Adversary Proceeding were served with process pursuant to the Bankruptcy Rules and the Federal Rules of Civil Procedure in the following manner: By mailing the Summons and Complaint by regular, first class United States mail, postage fully pre-paid, on June 9, 2016 as evidenced by the Certificate of Service previously filed herein on June 9, 2016.

2. Pursuant to the Complaint filed and the Summons issued on June 9, 2016, the Defendants were allowed 30 days to file a motion or answer or other pleading after the date of the issuance of the Summons.

3. The time for filing an answer or other pleading by the Defendants has expired, no answer or other pleading has been filed by the Defendants, and the Defendants have not otherwise appeared to defend the action. The Defendants have failed to plead or are otherwise subject to Entry of Default and Default Judgment as provided by the Bankruptcy Rules and the Federal Rules of Civil Procedure.

4. To the Plaintiff-Debtor's knowledge, the Defendants are not in the military service and the Defendants are not infants, incompetent persons, or otherwise under disability.

**WHEREFORE**, the Plaintiff-Debtor respectfully prays of the Court as follows:

1. That this Court enter default and default judgment as to the Defendants pursuant to the Federal Rules of Civil Procedure 55(b)(1); and

2. That this Court determine that the Plaintiff-Debtor is entitled to the relief requested in the Complaint herein and that this Court enter an Order allowing the Debtor-

Plaintiff to sell the real property free and clear of co-tenant interests and/or timeshare ownership interests, with the timeshare ownership interests of the Debtor-Plaintiff, all named Defendants and consent Order Parties to attach to the proceeds of the sale, according to their priority under state and federal law and pursuant to the confirmed Chapter 11 Plan of Reorganization in the above-captioned Bankruptcy proceeding; and

3. For any such other and further relief as this Court may deem just and proper.

This the 15th day of July, 2016.

**JORDAN PRICE WALL GRAY JONES & CARLTON, PLLC**

**BY: /s/ Hope Derby Carmichael**

**Hope Derby Carmichael  
NC State Bar No. 18146  
*hcarmichael@jordanprice.com*  
Paul T. Flick  
NC State Bar No. 13494  
*pflick@jordanprice.com*  
PO Box 10669  
Raleigh, NC 27605  
Telephone: (919) 828-2501  
Facsimile: (919) 834-8447**

***Special Counsel for Plaintiff-Debtor  
Peppertree-Atlantic Beach Association, Inc.***

**CERTIFICATE OF SERVICE**

I, Paul T. Flick, Post Office Box 10669, Raleigh, North Carolina 27605, certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age;

That on the 15th day of July, 2016, I served copies of the foregoing Motion on the Bankruptcy Administrators and parties listed via CM/ECF or U.S. Mail, as indicated.

I certify under penalty of perjury that the foregoing is true and correct.

DATED: 07/15/2016

**JORDAN PRICE WALL GRAY JONES & CARLTON, PLLC**

BY: /s/Paul T. Flick

Paul T. Flick  
NC State Bar No. 13494  
*pflick@jordanprice.com*  
PO Box 10669  
Raleigh, NC 27605  
Telephone: (919) 828-2501  
Facsimile: (919) 834-8447

*Special Counsel for Plaintiff-Debtor  
Peppertree-Atlantic Beach Association, Inc.*

Label Matrix for local noticing  
0417-5  
Case 16-00049-5-DMW  
Eastern District of North Carolina  
Raleigh  
Tue Jul 12 09:23:59 EDT 2016

Bankruptcy Administrator  
Two Hannover Square, Ste. 640  
434 Fayetteville Street  
Raleigh, NC 27601-1701

John T. Benson  
402 W Mount Vernon Street  
Nixa, MO 65714-9620

Paula Cardi  
7406A E Oak Island Dr  
Oak Island, NC 28465-4309

Paul T. Flick  
Jordan, Price, Wall, Gray, Jones, Carlt  
PO Box 10669  
Raleigh, NC 27605-0669

Jason L. Hendren  
Hendren Redwine & Malone, PLLC  
4600 Marriott Drive, Suite 150  
Raleigh, NC 27612-3367

Peppertree-Atlantic Beach Association, Inc.  
PO Box 1068  
Atlantic Beach, NC 28512-1068

Edward Primka  
1375 Partridge Pl N  
Boynton Beach, FL 33436-5407

Barbara M. Rusher  
748 Hidden Valley Road  
Salisbury, NC 28147-8119

Suzanne Sedillo  
8508 SHELLEY COURT  
Bowie, MD 20720-4472

Anthony C. Angion  
3815 Yolando Road  
Baltimore, MD 21218-2044

Gordon Beeson  
5 Tsienneto Rd #128  
Denny, NH 03038-1553

Ronald Buren  
1375 Partridge Pl N  
Boynton Beach, FL 33436-5407

Hope Derby Carmichael  
Jordan Price Wall Gray Jones & Carlton  
1951 Clerk Avenue  
Raleigh, NC 27605-1658

Marsha Mitchell Hamilton  
309 Wendy Circle  
Goldsboro, NC 27530-9338

Donald R. McIlwean  
1861 Poinsetta Drive  
Acworth, GA 30102-1259

Ellen S. Piner  
PO Box 2006  
Beaufort, NC 28516-5006

Sally Primka  
1375 Partridge Pl N  
Boynton Beach, FL 33436-5407

James T. Rusher  
317 Hidden Creek Circle  
Salisbury, NC 28147-7217

Unknown Heirs of Hazel S. Morris  
303 Maple Lane  
Morehead City, NC 28557-3130

Mary P. Angion  
3815 Yolando Road  
Baltimore, MD 21218-2044

Veronica Beeson  
5 Tsienneto Rd #128  
Denny, NH 03038-1553

Rosemarie Buren  
1375 Partridge Pl N  
Boynton Beach, FL 33436-5407

Judith H. Currin  
2055 Shady Grove Church Rd R  
Staley, NC 27355-8132

Rufus Hamilton Jr.  
309 Wendy Circle  
Goldsboro, NC 27530-9338

Karla P. McIlwean  
1861 Poinsetta Drive  
Acworth, GA 30102-1259

Robert B. Piner  
PO Box 2006  
Beaufort, NC 28516-5006

Rebecca F. Redwine  
Hendren Redwine & Malone, PLLC  
4600 Marriott Drive, Suite 150  
Raleigh, NC 27612-3367

Cruz Sedillo II  
8508 Shelley Court  
Bowie, MD 20720-4472

Francine B. Waugh  
2034 Farragut Dr.  
Stafford, VA 22554-2307

Max J. Waugh  
2034 Farragut Dr.  
Stafford, VA 22554-2307

End of Label Matrix	
Mailable recipients	30
Bypassed recipients	0
Total	30